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May 8, 2020

Rep. Marion O'Neill
357 State Office Building
St. Paul, MN 55155

Rep. Kelly Moller
569 State Office Building
St. Paul, MN 55155

Sen. Kari Dziedzic
95 University Avenue W.
Minnesota Senate Bldg, Room 2203
St. Paul, MN 55155

Re: Fiscal note for HF2983

Dear Representatives and Senator,

The Bureau of Criminal Apprehension (BCA) strives to build on the confidence and trust that victims of sexual violence have in their state system and create an environment that supports them and their decision to come forward and pursue justice. The BCA is dedicated to addressing issues as they arise, listening to concerns and learning from the experiences of other states' systems to best serve the survivors of sexual assault in Minnesota.

This letter is to further clarify the factors and considerations that informed the development of the Department of Public Safety's (DPS) fiscal note for HF2983. This funding is a priority for the BCA, DPS and the Governor's Office and was included in the Governor's proposed supplemental budget.

HF2983 contained four components for fiscal consideration. A recent media story falsely alleged that the "state lab inflated the cost of rape kit testing" and took specific issue with the data used to compute the estimated costs associated with the "test all" approach for unrestricted kits. While the figure included in the Uniform Crime Report for Rape was used for the final estimate, there were several additional considerations that informed this analysis.

HF2983 includes language stating that all *unrestricted* sexual assault examination kits must be submitted by a law enforcement agency to a forensic laboratory for testing within 60 days of receipt. The kits would be returned to the agency after testing and must be stored indefinitely.

The primary question to consider is: How many cases are not currently being submitted for testing? Since the BCA does not receive these cases currently, there is no set number to use as an estimate. Therefore, we looked at what we did know.

- a. The Minnesota Uniform Crime Report (UCR) for 2019 reported the total number of rapes to be approximately 2,700.

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- b. In 2018 and 2019, an average number of sexual assault kits submitted for DNA testing was 1,200. Compared to the UCR Rape data, this represents an approximate 46% submission rate.
- c. The BCA laboratory supplies all sexual assault evidence collection kits used by Minnesota medical facilities to collect evidence from victim-survivors. The BCA supplies the kits – about 2,600 a year – free of charge.
- d. The Minnesota Coalition Against Sexual Assault (MNCASA) conducted a survey of hospitals in 2016 to collect information regarding billing. The partial data collected indicated that over 2,337 sexual assault examinations were conducted in 2016. The UCR statistic for Rape in 2016 was 2,320.
- e. In addition to reported rapes, hospitals and advocates estimate there are over 800 kits collected per year from incidents of unreported rape. There is no clear data on how often these would be expected to convert to a reported rape.
- f. Over the past five years, the BCA laboratory has received kits from cases equaling, on average, 35-45% of the UCR figures for rape.
- g. A statewide inventory in 2015 showed that over 3,400 kits had not been submitted over multiple years.
- h. Since the 2015 inventory, agencies have located additional kits that had not been submitted. The most notable being the estimated 1,700 kits found by Minneapolis Police Department in 2019.
- i. A separate survey of law enforcement agencies to determine the anticipated increase in kit submissions due to new legislation was considered and determined to be unsuitable for this process. Law enforcement and prosecutors are currently reviewing their processes and making significant changes to how they investigate and prosecute sexual assaults. In this regard, historical data will not accurately inform future processes. Additionally, most agencies do not store unrestricted kits and are therefore unaware of the extent of this issue in their jurisdictions.
- j. Additional media coverage indicated there were more kits that had not been tested but had been destroyed by local law enforcement agencies over the years for various reasons.
- k. When the BCA sought input from state laboratories in other states that enacted similar legislation, we were strongly warned against underestimating the impact to critical services and advised to be prepared for significantly more kits than anticipated. Several states have been unable to maintain a reasonable turnaround time for testing for all kits. An example is Utah where they are currently experiencing delays of over one year for testing due to inadequate funding.

The BCA considered all of this information. The fiscal note assumptions include an abbreviated description that was the most straightforward explanation for the figure used. This was the UCR data for rape. It is true that not all reported rapes result in the collection of a kit; however, it is the only vetted numerical value available for consideration. It is quite possible and would be expected that the restricted kits have the potential to require testing as well. It would be reasonable to assume, based on the current and historical state of rape kit testing, that any overestimation of the submissions due to the UCR rape figure will be balanced by the exclusion of the number of restricted kits that can be converted, the underestimation of the kits that still are not being submitted, and the likely increase in kit collection due to awareness and building trust in the system.

Therefore, the estimated resources needed to address the anticipated increase in demand due to the HF2983 requirement that all *unrestricted* sexual assault examination kits be submitted by a law enforcement agency to a forensic laboratory for testing within 60 days of receipt is as follows:

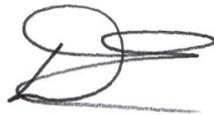
- The estimated increase in demand for forensic testing would be equivalent to an additional 1,500 cases per year from agencies that currently use BCA laboratory services.
 - The anticipated increase in cases divided by FTE capacity of 300 cases per year equals five DNA scientists to process the additional cases at a cost of \$125,000 per scientist per year.
 - An additional FTE in the DNA databasing unit to test known samples and verify offender samples. It is anticipated that these cases would follow the trend of other kits tested and would result in a 20% CODIS hit rate and an average of two known samples per kit. This would cost \$125,000 per year.
 - One DNA supervisor to oversee the increased staff for the Biology Section at a cost of \$150,000 per year.
 - Training and continuing education for the new DNA scientists at a cost of \$1,700 each per year.
- In 2018 and 2019, an average of 900 toxicology kits from sexual assault cases were submitted for testing. The same comparison to the UCR data was conducted to estimate an equivalent increase in submissions. This represents an additional estimated 1,000 toxicology submissions per year.
 - The anticipated increase in cases divided by FTE capacity of 500 cases per year equals two Toxicology scientists at a cost of \$125,000 each per year.
 - Training and continuing education for the new Toxicology scientists at a cost of \$7,000 each in the first year and \$1,700 each per subsequent year.
- Supplies to support the forensic testing of the additional cases cost \$300,000 per year.
 - DNA supplies = \$220,000.
 - Toxicology supplies = \$50,000.
 - Databasing supplies = \$30,000.
- New equipment and startup expenses in the first year at a cost of \$512,900.
 - \$9,750 computer and software needed per DNA FTE.
 - \$10,250 dedicated lab equipment needed per DNA FTE.
 - \$4,000 computer and software needed per TOX FTE.
 - \$9,200 dedicated lab equipment needed per TOX FTE.
 - \$366,500 additional lab equipment to support increase in DNA testing capacity.
 - BCA to absorb costs of additional lab equipment to support increase in TOX testing capacity.
- Renovation to accommodate the new scientists is needed in the first year at a cost of \$200,000.
 - Based on recent similar expansion expenses.
- Additional funding to provide services to agencies that currently use the services of a local laboratory for kit testing are as follows:
 - One DNA scientist would be needed to process the anticipated caseload of approximately 300 kits at a cost of \$125,000 per year.
 - Training and continuing education for the new DNA scientist is needed at a cost of \$1,700 per year.
 - Supplies to support the forensic testing of the additional cases cost \$45,000 per year.
 - New equipment for the additional scientist is needed in the first year at a cost of \$20,000.

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The remaining three topics addressed in the fiscal note are outlined below.

1. All *restricted* kits must be submitted to the BCA within 60 days of receipt by a law enforcement agency or hospital for storage of at least 30 months.
 - There is an estimated a one-time cost of \$220,000 for the expansion and renovation of controlled environment evidence storage locations within the BCA. Storage considerations were necessary primarily due to the centralized storage requirement for restricted kits.
 - The most current information suggests at least 800-1,000 kits are collected from unreported rapes annually. The storage of these kits will transition from hospitals and law enforcement agencies across to the state to the BCA for a 30-month hold.
 - The ongoing management of centralized storage retention schedule administration, and maintaining tracking data for this new category of kits is estimated to cost \$245,000 per year for two technicians and administrative expenses.
2. BCA is required to develop a uniform consent form to be widely distributed and posted on the BCA Website.
 - The BCA proposes to absorb costs associated with this requirement.
3. The Commissioner of Public Safety is required to maintain a website that can be searched by sexual assault victims to learn the status of their individual kit.
 - This estimated one-time cost is \$250,000 for the purchase and implementation of a statewide tracking system. This is based on quoted pricing that includes administration of access for all users including hospitals, law enforcement, laboratories and survivors.
 - The ongoing support for this system is \$185,000 per year after the first year.

The BCA is dedicated to supporting a comprehensive approach to sexual assault reform in the state of Minnesota, as evidenced by the inclusion of this legislation and funding in the Governor's budget.. We trust the information contained within this communication provides additional clarity and reinforces the statements provided in the original fiscal note submitted for HF2983 in February 2020.



Drew Evans
Superintendent

Cc: Chair Carlos Mariani, Public Safety and Criminal Justice Reform Finance and Policy Division
Chair Warren Limmer, Judiciary and Public Safety Finance and Policy Committee
Budget Analyst Adam Blom, Legislative Budget Office